

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:07-HC-2152

UNITED STATES OF AMERICA,)
Petitioner,)
v.) ORDER
GEORGE ALBERT HOOD,)
Respondent.)

This matter is before the court on three motions: (1) respondent's 11 September 2007 motion (via counsel) to dismiss; (2) respondent's 18 June 2010 *pro se* motion to appoint new counsel and (3) an 18 June 2010 motion by counsel for respondent to withdraw. The motions are ripe for disposition.

With regard to the motions regarding appointment of counsel, the government filed a response to the motion to withdraw, indicating it has no objection to appointment of new counsel. The motion to withdraw indicates that “Office of the Federal Public Defender has identified qualified substitute counsel who is willing to accept an appointment from this Court to represent” the respondent. (Mot. Withdraw at 2.) The motions are ALLOWED, and the Federal Public Defender is DIRECTED to refer this case to substitute counsel, who shall enter a Notice of Appearance within five days of the date of this order.

With regard to the motion to dismiss, in light of the Supreme Court’s opinion in United States v. Comstock, ___ U.S. ___, 130 S. Ct. 1949 (2010), the motion is DENIED WITHOUT PREJUDICE. Respondent may renew his motion to dismiss through new counsel to address “any claim that [18 U.S.C. § 4248] or its application denies equal protection of the laws, procedural or substantive due process, or any other rights guaranteed by the Constitution.” Comstock, 130 S. Ct.

at 1965.

This 20 July 2010.



W. Earl Britt
Senior U.S. District Judge